



**6712-01**

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 76**

**[DA 19-25]**

**Electronic Delivery of MVPD Communications; Modernization of Media Regulation**

**Initiative**

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** In this document, the Media Bureau of the Federal Communications Commission (FCC or Commission) extends the deadlines for comment on an industry proposal to revise the carriage election notice process.

**DATES:** Submit comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**; reply comments on or before **[INSERT DATE 40 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** You may submit comments, identified by MB Docket Nos. 17-105 and 17-317, by any of the following methods:

- Federal Communications Commission's website: <http://apps.fcc.gov/ecfs/>. Follow the instructions for submitting comments.
- People with Disabilities: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: [FCC504@fcc.gov](mailto:FCC504@fcc.gov) or phone: 202-418-0530 or TTY: 888-835-5322.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** For additional information on this proceeding, contact Varsha Mangal, of the Media Bureau, Video Division, (202) 418-0073 or [varsha.mangal@fcc.gov](mailto:varsha.mangal@fcc.gov), or Lyle Elder of the Media Bureau, Policy Division, (202) 418-2365 or [lyle.elder@fcc.gov](mailto:lyle.elder@fcc.gov). Direct press inquiries to Janice Wise (202-418-8165; [janice.wise@fcc.gov](mailto:janice.wise@fcc.gov)).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's DA 19-25, adopted and released on January 29, 2019. The full text of this document is available electronically via the FCC's Electronic Document Management System (EDOCS) Web Site at [http://fjallfoss.fcc.gov/edocs\\_public/](http://fjallfoss.fcc.gov/edocs_public/) or via the FCC's Electronic Comment Filing System (ECFS) Web Site at <http://fjallfoss.fcc.gov/ecfs2/>. (Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.) This document is also available for public inspection and copying during regular business hours in the FCC Reference Information Center, which is located in Room CY-A257 at FCC Headquarters, 445 12th Street, SW, Washington, DC 20554. The Reference Information Center is open to the public Monday through Thursday from 8:00 a.m. to 4:30 p.m. and Friday from 8:00 a.m. to 11:30 a.m. The complete text may be purchased from the Commission's copy contractor, 445 12th Street, SW., Room CY-B402, Washington, DC 20554. Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format), by sending an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or calling the Commission's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

**Synopsis:**

On December 13, 2018, the Media Bureau released a PN (*December PN*) seeking comment on the proposal that was submitted by the National Association of Broadcasters (NAB) and NCTA – The Internet and Television Association (NCTA) on December 7, 2018 in docket number 17-317 (*Joint Proposal*, available online at

<https://ecfsapi.fcc.gov/file/1207161565486/Ex%20Parte%20Carriage%20Elections%20Notice%20%20NCTA-NAB%2012-7-18.pdf>).<sup>1</sup> The *Joint Proposal* responds to the *Electronic Delivery of MVPD Subscriber Notification Rules* Notice of Proposed Rulemaking (*NPRM*) that sought comment, in part, on updating the requirement that broadcast television stations send carriage election notices via certified mail. In response to the *NPRM*, several parties proposed ways to reduce the burden and costs involved in the carriage election process.

Currently, sections 76.64(h) and 76.66(d) of our rules direct each television broadcast station to provide notice every three years, via certified mail, to each cable system or Direct Broadcast Satellite carrier serving its market regarding whether it is electing to demand carriage (“must carry” or “mandatory carriage”), or to withhold carriage pending negotiation (“retransmission consent”). The *NPRM* sought comment on revising this requirement to permit broadcast stations to use alternative means of notice.

Under the *Joint Proposal*,

a commercial broadcast TV station would be required to send notice of its must carry or retransmission consent election to a cable operator only if the station changed its election status from its previous election. In those cases, the broadcaster would send its notice to an email address listed in the cable operator’s online public file or in the FCC’s Cable Operations and Licensing System (COALS) database, for cable operators that do not have an online public file.

NAB and NCTA claim that this approach “would alleviate the burdens associated with the current notification process and meet the needs of both broadcasters and cable operators.”

The comment and reply deadlines established by the *December PN*, as well as the planned publication of that PN, fell during a lapse in funding. By operation of the General Counsel’s January 28, 2019 Public Notice, the deadlines for both would have been extended to the same day – January 30,

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<sup>1</sup> *Media Bureau Seeks Comment on Industry Proposal for Carriage Election Notice Modernization*, MB Docket No. 17-317, PN, DA 18-1250 (MB December 13, 2018).

2019.<sup>2</sup> In light of these unique circumstances, the Media Bureau, on its own motion, further extends the deadlines. We will publish this PN in the Federal Register and announce the final comment dates once they are established.

We invite the public to comment on the recommended approach in the *Joint Proposal*. In particular, we seek comment on whether, and to what extent, the Commission should adopt these recommendations or any alternative modifications to the carriage election rules. The Commission will consider the *Joint Proposal* and the comments filed in response to this PN together with the comments and ex partes previously filed in response to the *NPRM* in determining what action to take in this proceeding.

*Ex Parte Rules. – Permit-But-Disclose.* The proceeding shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules, found at 47 CFR §§ 1.1200 *et seq.* Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing,

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<sup>2</sup> *Suspension of Filing Deadlines*, Public Notice, DA 19-20 (OGC January 28, 2019).

written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

*Filing Requirements.—Comments and Replies.* Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- **Electronic Filers:** Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- **Paper Filers:** Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12<sup>th</sup> Street, SW, Washington DC 20554.

*Availability of Documents.* Comments, reply comments, and *ex parte* submissions will be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12<sup>th</sup> Street, S.W., CY-A257, Washington, D.C., 20554. These documents will also be available via ECFS. Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.

*People with Disabilities.* To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the FCC's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

FEDERAL COMMUNICATIONS COMMISSION

Thomas Horan,  
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